SURETYSHIP — PARTNERSHIP — NOTICE OF DISSOLUTION. — The defendant was guarantor of the debts of a firm, from which one partner withdrew without giving notice to the plaintiff. In a suit by the latter on a claim subsequently accruing, *held*, that the defendant was discharged from his guaranty. *Byers* v. *Hickman Grain Co.*, 84 N. W. Rep. 500 (Iowa.).

It is settled law that where there is a guaranty of partnership debts the withdrawal of any member of the firm discharges the guarantor, unless the guaranty in its terms covers the debts of the firm's successors. *Backhouse* v. *Hall*, 6 B. & S., 507; *Simson* v. *Cooke*, 8 Moore, 588. In the principal case, it is true, as no notice had been given to the plaintiff, the members of the old firm were all estopped to set up the fact of its dissolution. *Dickinson* v. *Dickinson*, 25 Gratt. 321; *Pecker* v. *Hall*, 14 Allen, 532. This, however, cannot affect the result. The guarantor can be held only to the strict letter of his undertaking, which was to guarantee the debts of a certain firm, and no negligence on the part of the firm can estop the guarantor from showing the dissolution of this firm and his consequent discharge. This result was reached in another case involving the same principle. *Manhattan Gas Light Co.* v. *Ely*, 39 Barb. 174.

TORTS — LOOK AND LISTEN RULE — CONTRIBUTORY NEGLIGENCE. — The plaintiff failed to look before crossing defendant's car track, and was run into. The lower court charged that if a person who had looked would reasonably have thought it safe to cross, plaintiff was not contributorily negligent, and a verdict was found for the plaintiff. *Held*, that the charge was erroneous. *Dummer* v. *Milwaukee Ry. & Light Co.*, 84 N. W. Rep. 853 (Wis.).

Failure to look and listen has frequently been held sufficient negligence in itself to bar a recovery. *Ward* v. *Rochester Electric Ry. Co.*, 17 N. Y. Supp. 427. See 13 HARV. LAW REV. 226. In such cases, however, no question has been raised whether such want of care contributed to the injury. When this question is distinctly left to the jury, which finds, as here, that the negligence was not part of the cause of the accident, it seems unjustifiable to rule that as a matter of law the plaintiff was guilty of contributory negligence, since the whole theory of such negligence is based on such a relation of legal cause. *Tuff* v. *Warman*, 5 C. B. N. S. 573. Though certain acts may be held, by established precedent, to be negligent *per se*, by no rule or precedent can they be made a direct cause of the accident.

TRUSTS — PLEADING — SUIT AT LAW AGAINST TRUSTEE. — The plaintiff sued the defendant as trustee for an injury caused by the negligence of an employee of the trust estate. *Held*, on demurrer, that the action should have been against the defendant in his personal, not in his representative capacity. *Parmenter* v. *Barstow*, 47 Atl. Rep. 365 (R. I.). See NOTES, p. 608.

REVIEWS.

CONFLICT OF LAWS; or, Private International Law. By Raleigh C. Minor, Professor of Law in the University of Virginia. Boston: Little, Brown & Co. 1901. pp. lii, 575.

Owing to the ever-increasing intercourse between states having different laws, and the consequent variety of questions continually arising, conflict of laws is beginning to rank among the important branches of the law, and yet, in proportion to its importance, the number of American text-books on the subject has been surprisingly small. One may therefore predict with confidence that Mr. Minor's book on this difficult, important, and interesting topic will meet with a hearty welcome by the legal profession.

The great foundation and basic principle on which the author rests his exposition of the law is *situs*. "Every element of every transaction

known to the law has a situs somewhere, and the law of that situs will regulate and control the legal effect of that element." Accordingly, the successive parts of the work are devoted to the discussion of the situs of the person, of status, of personal property, of contracts, of torts and crimes, and of remedies, with an important introductory part setting forth the exceptions to the application of "the proper law." In spite of the stress laid on the idea of situs, no clear definition of it is given. The conception seems to be that the legal situs, which may or may not be the actual situs of a thing or transaction, is that place the law of which governs when a question arises for decision. But what that place is, and what law does govern, still remains the very problem which we must solve, and as we are not brought any nearer to its solution if we call that place situs and the law which governs "the proper law," it is difficult to discover any fundamental principle in the idea of situs. In seeking for an underlying principle, more attention might well be paid to the fact that conflict of laws, as is pointed out by Professor Dicey, deals with the recognition of rights actually acquired, *i. e.* rights which could be enforced by the sovereign of the state where they have their origin. In this view, it would follow that the law governing the acquisition of rights must ordinarily be the territorial law of that jurisdiction within which the rights are asserted to have arisen, and which controlled and could have prevented their arising. This principle of territoriality, if we may call it so, would, of course, be subject to important exceptions where by consent of all sovereigns a different rule has been established, as, for instance, in the case of status and of the inheritance of personalty. Important as these exceptions are, the principle is one which is founded on reason, and is free from the arbitrariness involved in the notion of situs. It would take care of the law as to realty, which the present author is forced to regard as an exception to his theory, and would enable us as to personalty to avoid the unsatisfactory maxim, *mobilia personam sequuntur.*

But difficulties of this kind are only in regard to theory. As an exposition of the law the treatise is very satisfactory. Inaccuracies are comparatively few. It may be noted that in the discussion of the recognition of foreign judgments *in personam*, page 187, no reference is made to the English doctrine (see *Godard* v. *Gray*, L. R. 6 Q. B. 139), which is, it is believed, much sounder than the view of *Hilton* v. *Guyot*, 159 U. S. 113. The arrangement presents the law in clear-cut outlines, and the idea of situs has served admirably as a mode of classification.

H. K.

THE LAW OF SURETYSHIP AND GUARANTY. By Darius H. Pingrey, LL. D. Albany, N. Y.: Matthew Bender. 1901. pp. xvi, 443.

There is certainly room for a book on the subject of suretyship and guaranty that will treat this difficult branch of the law in a scientific and scholarly manner. The nature of the topic and its close connection with the Roman law adapt it peculiarly to a logical exposition. This service, however, Mr. Pingrey has not attempted to render us. His object, as he himself says, is merely to state the principles of law as settled by the weight of authority, without theoretical discussion or comment upon conflicting views. This he has done concisely and clearly, and with such copious references to authorities — over 4000 cases being cited — as to render the book of considerable value to a lawyer in the preparation of